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SJC-12628

NEIL ANDERSON vs. COMMONWEALTH.

December 11, 2019.

Supreme Judicial Court, Superintendence of inferior courts.

The petitioner, Neil Anderson, appeals from the judgment of a single justice of this court denying, without a hearing, his petition for extraordinary relief under G. L. c. 211, § 3, and from the single justice's order denying his motion for reconsideration. We affirm.

In the petition, Anderson claimed that a Superior Court judge who presided in a criminal case against him had engaged in judicial misconduct -- specifically, that the judge forged certain documents to assist the prosecution. The single justice correctly denied relief because Anderson, who pleaded guilty to several charges in the criminal case, and who had not filed a postconviction motion to withdraw his pleas, "failed to show he lacked an adequate alternative to relief under G. L. c. 211, § 3." Watson v. Appeals Court, 456 Mass. 1027, 1027 (2010), citing Votta v. Police Dep't of Billerica, 444 Mass. 1001, 1001 (2005) (exercise of extraordinary superintendence power not "a substitute for the normal appellate process or merely to provide an additional layer of appellate review after the normal process has run its course").¹ Moreover, Anderson has "failed to provide

¹ We note that Anderson twice availed himself of the opportunity to file a complaint with the Commission on Judicial Conduct. The commission found no basis to investigate the complaints, observing that under G. L. c. 211C, § 2 (4), "Commission proceedings shall not be a substitute for an appeal." Anderson has no private right of action to have those

any measure of record support for his claims of judicial misconduct." Watson, supra, citing Fogarty v. Commonwealth, 406 Mass. 103, 106-107 (1989) ("Clearly . . . an unsupported charge of . . . judicial misconduct fail[s] to demonstrate a substantial claim . . . necessary to justify the extraordinary relief of G. L. c. 211, § 3" [quotation omitted]). There was no error of law or abuse of discretion by the single justice.

Judgment affirmed.

Neil Anderson, pro se.

Mary O'Neil, Assistant District Attorney, for the Commonwealth.

determinations reviewed by this court. Matter of Smallwood, 470 Mass. 1018, 1019 (2014).